

## COURT MINUTES OF CONFERENCE

ESTATE OF JAMES FRANKLIN PERRY, et al.

v.

CASE NO. 12-CV-664-JPS

CHERYL WENZEL, et al.

### HON. J. P. STADTMUELLER PRESIDING

DATE: March 12, 2019

TIME SCHEDULED: 8:30 a.m.

COURT DEPUTY/CLERK: Kate Maternowski

TIME CALLED: 8:31 a.m.

COURT REPORTER: Rich Erlich

TIME FINISHED: 9:00 a.m.

PURPOSE: Final Pre-Trial Conference

PLAINTIFFS BY: James Gende and Christopher Katers

DEFENDANTS BY: Susan Lappen

Notes:

8:31 a.m.      Appearances.

8:32      Court discusses posture of the case; Court re-incorporates its comments from the June 26, 2018 pre-trial conference; objective reasonableness standard under the Fourth Amendment will govern the medical care claim in this case; as to experts, if there is to be any such testimony, it will be limited and the Court will rule as to the witnesses' testimony's admissibility during the course of the trial; any claim by James Franklin Perry Jr. appears not to be at issue in this case any longer, and therefore any related testimony or evidence will not be necessary

8:36      If the case settles after noon on Thursday, March 21, 2019, the parties will jointly bear the cost of the Court having called a jury

8:35      Court will conduct voir dire; seven jurors will be selected; each side will be allotted three preemptory strikes; jurors will be permitted to take notes; each side will be afforded 10 to 12 minutes for opening statements and 30 minutes for closing statements; Plaintiffs must reserve time for rebuttal during opening

8:38      Apart from physical exhibits, all exhibits will be presented electronically

8:39      Court discusses daily trial schedule

8:39 Draft jury instructions will be available March 20, 2019

8:40 Plaintiffs' counsel states that he expects a stipulation of dismissal as to the Milwaukee County defendants to be filed soon; Court instructs the parties to file a stipulated update to the case caption for use at trial for materials to be submitted to the jury

8:41 Court and counsel discuss trial administration matters; Court states that Defendants will be permitted to use Room 422 and the Plaintiffs will be permitted to use Room 426 during the course of the trial

8:42 Defendants' counsel inquires about pending motion in limine Number 10 related to Lt. Robbins; Court states that the statement itself can come in, but it does not seem that any part of the subsequent investigation is germane to the issue to be tried in this case; if Plaintiff believes otherwise, he can make his case during trial

8:45 Defendants' counsel inquires about pending motion in limine Number 14 regarding officers Solinsky and Lopez; Court notes that the Seventh Circuit's decision stands for itself; Court is not going to stand in the Plaintiff's way if there are facts to suggest the Seventh Circuit got it wrong as to those defendants

8:47 Defendants' counsel inquires about pending motions in limine Numbers 15 and 16 regarding post-death photographs and the destruction of the spit mask; Court states that, as to the spit mask, the fact that it is no longer available can be presented to the jury, but no adverse inference can be drawn; as to the photographs, even though they may be difficult for some jurors to view, jurors can look away if they choose; the better course is to present evidence without need to resort to photographs, but the Court will make a decision as the evidence comes in during trial

8:51 Court inquires about parties' estimated timeline; Plaintiffs' counsel states that he believes it is possible the case could conclude in five trial days; Defendants' counsel states that she has scheduled witnesses for Friday and Monday; Court and counsel discuss

8:59 Jury pool information will be available Thursday, March 21, 2019; this case is the only trial in this courthouse on the week of March 25, 2019

9:00 No other matters to discuss; Court stands in recess